

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SIMON AND SIMON, PC, et al.,
Plaintiffs,
v.
ALIGN TECHNOLOGY, INC.,
Defendant.

Case No. 20-cv-03754-VC (TSH)

ORDER RE: MOTION TO SEAL
Re: Dkt. No. 277

In ECF No. 277, Align filed a motion to consider whether another party’s material should be sealed in connection with the joint discovery letter brief at ECF No. 278. In ECF No. 281, Plaintiffs filed a declaration in support of sealing. The Court grants Align’s motion (meaning that it will consider whether the material should be sealed) and concludes that the material should not be sealed. Here, that material is (1) an excerpt of deposition testimony by Dr. Sherwin Matian of Plaintiff VIP Dental Spas, attached as Exhibit 1; (2) an email between VIP Dental Spas and a customer whose personally identifying information (“PII”) has been redacted, attached as Exhibit 2; and (3) quotations from Exhibits 1 and 2 in the joint discovery letter brief.

As to Exhibit 1, in order to rule on the discovery dispute, the Court had to discuss nearly all of the testimony in the deposition excerpt, so that is in the public record anyway. While the undersigned has on occasion issued orders with minor redactions in them, to keep all of this deposition testimony out of the public record would have required redacting nearly the entire order, preventing the public from understanding the basis of the Court’s ruling. The Court takes a dim view of secret court orders, and anyway, there is nothing in the deposition testimony that merits that kind of secrecy.

As for Exhibit 2, it’s important to understand that when Plaintiffs produced this email

1 exchange, they redacted the PII in the version they produced. The current sealing request
2 therefore relates to an email exchange with no patient PII in it. It reveals nothing confidential and
3 is not worthy of being sealed.

4 Accordingly, Align’s motion to consider whether Plaintiff’s material should be sealed is
5 **GRANTED**, and Plaintiffs’ request to seal is **DENIED**. The Court orders Align to file the
6 unredacted joint discovery letter brief, along with Exhibits 1 and 2, in the public record (but the
7 PII must still be redacted in Exhibit 2) no sooner than five days and no later than 10 days from
8 today.

9 **IT IS SO ORDERED.**

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11 Dated: February 28, 2023

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13 THOMAS S. HIXSON
14 United States Magistrate Judge
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